

MINUTES OF THE PLANNING COMMISSION MEETING

**PLANNING COMMISSION/
BOARD OF ZONING APPEALS
August 18, 2009**

Commissioners Present: Cowman, McLean, Smith, Bonner, Wrischnik

Commissioners Absent: Gage, King

Others Present: Mike Gotfredson, Amy Barenklau, Brian McCauley, Kathie Mendenhall, and Alan Hire

Item 1: Pledge of Allegiance

Item 2: Consider minutes from the July 21, 2009 meeting

Chair Cowman called the meeting to order. The first order of business was the consideration of the minutes from the July 21, 2009 meeting.

Commissioners Bonner and Cowman made a motion to approve the minutes as submitted. Commissioners Cowman, Bonner and Wrischnik voted in favor with Commissioners Smith and McLean abstaining due to their absence at the July meeting.

Item 3: 09-PPC-03 – Consideration and vote on a site plan for a new Lakemary residential building at 100 Lakemary Drive, Triangle Builders, applicant.

Planner Gotfredson presented the staff brief. He explained that the City Council had remanded this item back to the Planning Commission. He stated that staff had met with the applicant and during those meetings and discussions, the enclosed access had been proposed. He explained that access will be restricted to the emergency access by gate with a drop pin and signage stating the drive is for emergency access only.

Planner Gotfredson's findings are that the application is consistent with Section 21.625 of the LDO and that the application will not be detrimental to the health, safety or general welfare of the community.

Planner Gotfredson's recommendation is to approve the site plan with the condition that any engineering comments be satisfactorily completed.

Commissioner Cowman confirmed that the drive is hard surface and that the Council's concern had been addressed. Commissioner Smith inquired if the Fire Chief is aware that there is no access to the two existing buildings. Planner Gotfredson confirmed all items.

Commissioners Cowman and Bonner made a motion to recommend approval of the site plan for the new building at the Lakemary campus with the condition that any engineering comments be satisfactorily addressed. All Commissioners voted in favor.

Item 4: 09-CUP-08 – Consideration and vote on a renewal for a conditional use permit for a pet grooming business at 103 N Pearl, Kathie Mendenhall, applicant.

Commissioners Cowman and Bonner made a motion to open the public hearing with all commissioners voting in favor.

Planner Gotfredson presented the staff brief. He stated that in reviewing compliance with previous conditions they have been generally met. He stated that staff had only received one comment in regards to the renewal and it was from the building owner. He provided a copy of the letter to the commissioners in attendance.

Planner Gotfredson stated that there are some items for which he would like the commissioners to provide guidance to staff. He stated that it was his understanding that the boarding of pets was intended to prevent kennels. In his review of the property it is obvious that this is not a kennel, but the applicant does board pets at the location.

Planner Gotfredson stated that the animals appear to be well kept, with clean cages and there is not an overwhelming smell when entering the building. He stated that during discussions with the applicant she has been forthcoming and forward with staff. The applicant uses the animals to educate students and the community and did not feel that any possible violations were done deliberately.

Planner Gotfredson's findings are that the application is consistent with Section 21.220 of the LDO, the conditions of approval are consistent with Section 21.222 of the LDO and that the application will not be detrimental to the health, safety or general welfare of the community.

Planner Gotfredson recommends renewal of the conditional use permit with recommended conditions.

Mr. Gotfredson stated that the applicant, Kathie Mendenhall was in attendance to answer any questions. He explained that he would recommend one change to the renewal and that would be to have staff investigate for compliance and report back to the commissioners instead of requiring the applicant to notify neighbors and have a public hearing. If any problems arise staff will handle and report to commissioners.

Kathie Mendenhall spoke to the commissioners about the animals that she has and explained that they are all in cages and are used to educate children and adults about the animals. She stated that she does not want to sell the animals, that most are pets. The only exception is the crickets which she sells to clients as a convenience because the nearest dealer is in Olathe.

Commissioner Cowman asked the applicant to clarify that the animals are pets, not merchandise for sale. Ms. Mendenhall stated that they are pets and some are very exotic and she has no desire to sell the animals. Commissioner Cowman inquired how long the applicant had owned the animals and how many had been sold. Ms. Mendenhall explained that she had the animals for several years and that she had sold maybe a total of twelve animals in that time.

Ms. Mendenhall explained that she had previously had raccoons, opossums and squirrels brought in to her shop by individuals. She had gotten the animals healthy and released them back into the wild. She stated that grooming is her main business and that is what she wants to do. She asked the commissioners to allow her to continue selling the crickets to customers.

Commissioner Smith inquired if pet shops are an allowed use in Downtown zoning. Planner Gotfredson explained that they would be commercial retail and are a permitted use in this zoning district.

Commissioner Bonner asked the applicant if the only animals staying in the business over night were pets and wanted to verify that no dogs are being held overnight. Ms. Mendenhall confirmed that no dogs are boarded overnight.

Commissioner Cowman stated that he had spent time researching grooming shops, pet shops and combinations. He stated that he had found that it appeared to be somewhat common to have a grooming business that would sell animals or have vet services and vice versa. He stated that it appeared to be traditional for these types of businesses and felt that it was an accessory use. He indicated that he was in support of the accessory use.

Commissioner Bonner inquired if the City Code addresses allowed number of animals other than cats and dogs. Planner Gotfredson stated that there was nothing in respect to the types of animals the applicant owned.

There were no additional comments from those in attendance.

Commissioners Cowman and McLean made a motion to close the public hearing. All Commissioners voted in favor.

Commissioner Bonner made a motion to recommend approval of the Conditional Use Permit as recommended. Commissioner Wrischnik seconded the motion.

Commissioner Cowman inquired about clarification as to if the motion included conditions for dangerous animals. After discussion, Commissioner Bonner withdrew his original motion.

Commissioners Bonner and Wrischnik made a motion to recommend that the conditional use permit be renewed with the following conditions:

1. *Adequate ventilation shall be provided between adjoining structures.*
2. *All pet waste shall be disposed in an approved manner.*
3. *Noise levels shall be limited so as not to disturb surrounding properties.*
4. *All chemicals used in the grooming process shall be non-destructive to the public sanitary sewer system.*
5. *No overnight boarding of pets is permitted.*
6. *Hours of operation be limited to 7am – 7pm Monday through Friday and 8am - 5pm on Saturday.*
7. *Grass over sidewalk continue to be eliminated.*
8. *One street tree be reinstalled along Piankishaw.*
9. *Conduct a review of the conditional use permit in August 2010 with the zoning officer. This review will be reported to the Planning Commission. Subsequent reviews will occur as needed to ensure compliance.*
10. *At any time, the City may institute revocation of the conditional use permit for violations of the conditions of approval, expiration, or the reasons specified in Section 21.225 of the Land Development Ordinance. The City shall provide notice to the landowner and public in the same manner as was provided for the establishment of the conditional use permit.*

All commissioners voted in favor.

Item 5: Planning Commissioner Training

Planner Gotfredson provided information and actual cases on takings and exactions. He stated that the cases provided were all fairly recent and made note that rulings in courts had been close.

The Commissioners all felt it was enlightening and good information to help them.

Item 6: Land Development Ordinance Discussion

Planner Gotfredson explained that the Council has been consumed with water and budget discussions, so LDO discussions have been put on hold. He explained that he would like to talk with the commissioners about what items they feel need to be addressed in the LDO.

Commissioners Cowman and Bonner both indicated that it was confusing and difficult to look in many different sections to determine requirements for one use. Commissioner Cowman indicated that maybe some of the words used could be put into layman terms so that it would be easier for people to understand the requirements.

Commissioner Cowman asked Alan Hire if he had any comments. Mr. Hire agreed that it was hard to track to determine requirements and that landscaping was difficult to determine. He also

stated that he felt the document was too rigid with no wiggle room. Mr. Hire also mentioned parking requirements.

Commissioner Smith stated he felt the sign regulations should be looked at based on the number of variance requests. Commissioner Cowman mentioned parking requirements as a potential section to review.

Item 7: City Planner Report

Planner Gotfredson reviewed items from the July agenda and gave commissioners an update on the status of items. Mr. Gotfredson discussed a sign issue at 103 N Silver with the commissioners and asked for direction. Commissioner Cowman stated that he was concerned with making a non-conforming sign more non-conforming, but he also understood the difficulties with having tenants who are unable to advertise.

Commissioner Cowman inquired if a conforming sign would meet current size and setback requirements. Planner Gotfredson indicated it would be a very tight fit on the lot, possibly impossible. Commissioner Cowman stated that the existing sign is in pretty bad shape.

Commissioner McLean said he felt that now is the time to rectify the issue and get the sign in compliance. Commissioner Cowman inquired what would need to happen if the owner can't bring the sign up to code and meet all requirements. Planner Gotfredson indicated that in that case the request will come back to the commissioners as a deviation.

Planner Gotfredson asked the commissioners for direction on a banner sign for Cross Point Assembly of God. They want to advertise programming on the local access channel on a banner sign for about a six month period.

Commissioners discussed the LDO requirements and expressed concerns about the length of time that is being requested. The feeling among commissioners was to stick with LDO requirements.

Planner Gotfredson explained he had provided a copy of the proposed Neighborhood Revitalization Act Plan and asked commissioners to review as he intends to discuss that item at the September meeting. Mr. Gotfredson spoke with commissioners briefly about the K-68 meeting to be held at Miami County on September 3rd.

Commissioner Cowman asked Alan Hire if he had an item for the commissioners. He spoke to them about his frustration in trying to get an acceptable emergency access road for the Lakemary project.

Item 8: Items from Commissioners

Planner Gotfredson provided the commissioners with a copy of Paola City Ordinance 2832 vacating a portion of Gold Street. Commissioner Gage had inquired previously about this particular section of road. Commissioner Cowman asked that staff forward a copy to Commissioner Gage.

Item 9: Adjournment

Commissioners Bonner and Cowman made a motion to adjourn with all Commissioners voting in favor.

The meeting was adjourned at 6:01 pm.